IN THE HIGH COURT OF DELHI

CM(M) No. 962/2007

Sh. Rajesh Sehra ..... Petitioner
! through: Mr. Nikhilesh R., Advocate

VERSUS

$ Smt. Roma Sehra ..... Respondent
^ through: Mr. R.N.Dubey, Advocate and
Mr. Gaurav Gupta, Advocate
Respondent in person.

% DATE OF DECISION: 18.12.2007

CORAM:

* **Hon'ble Mr.Justice Pradeep Nandrajog**

1. Whether reporters of local papers may be allowed to see the judgment? Y

2. To be referred to the Reporter or not? Y

3. Whether judgment should be reported in Digest? Y

: **PRADEEP NANDRAJOG, J.** (Oral)
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1. The petitioner has taken an exception to the order dated 12.1.2007 disposing of respondent's application under Section 24 of the Hindu Marriage Act.

2. The order is prolix. It runs into 22 pages. I had noted similar orders being passed by the Judge concerned and had set aside a few orders directing that the issue should be decided with focus and with reference to the pleadings of the parties and prima facie material brought on record to sustain or support the alleged income of the opposite spouse. In spite

thereof, I note that repetitive cut and paste orders are continued to be passed.

3. In the instant case, the husband alleged that the wife was running a beauty parlour under the name and style 'M/s. ROMA Beauty Parlour'. The wife denied the same. Qua the husband, the wife alleged that he was running a STD Booth wherefrom business of sale and purchase of mobile phones and accessories was also being conducted by him. Additionally, the wife alleged that the husband was helping his father in some dental business. She alleged that her husband was having a monthly income of Rs.25,000/-.

4. The impugned order notes the respective stands of the parties in the first four pages thereof. From page No.5 till page No.18 a plethora of judgments have been noted. Some legal principles have been culled out.

5. The conclusions commence from page 18 onwards and terminates on page No.22.

6. Inchoate and contradictory findings have been arrived at.

7. In para 18 it is recorded by the learned Matrimonial Judge that it is revealed to him that the wife is having no source of income and that her husband has made no provisions for her. In the next paragraphs i.e. para 29 the learned Judge has

opined that the husband was prima facie running a STD Booth wherefrom mobile phone and accessories were being sold by him and it could reasonably be estimated that his monthly income from said business was Rs.10,000/-. In same paragraph it has been opined that from the assistance given by the husband to his father pertaining to the dental clinic it could be assumed that the husband would be having an income of Rs.25,000/- per month.

8. But, in total contradictions to what has been recorded in para 28 pertaining to the income of the wife, in para 31, the learned Judge has recorded that it is revealed to him that the wife was a qualified beautician and was running a beauty parlour in the name and style 'M/s. ROMA Beauty Parlour' wherefrom she was earning Rs.5,000/- per month. Thereafter, in para 32 the same findings as have been noted in para 29 pertaining to the income of the husband have been reiterated. In para 33 once again, income of the wife which has been recorded in para 31 has been opined to be the income of the wife. But in the same paragraph the learned Judge has noted that one spouse is exaggerating the income and the other is understating the same.

9. Who was exaggerating what and who was understating what has not been recorded.

10. After opining conclusively in para 29, reiterated in para 31 that the income of the husband was Rs.10,000/- per month from the business of the STD Booth and sale of mobile phone and accessories and that his income was Rs.25,000/- per month while assisting his father in the dental clinic, in para 34 the learned Judge has opined that he treats the monthly income of the husband to be Rs.10,000/-.

11. Maintenance of Rs.6,000/- per month has been awarded to the wife who I note is having the custody of two minor children with her.

12. I am unable to gather the rationale of the decision.

13. Is the learned Judge treating the income of the husband at Rs.10,000/- per month or is it Rs.25,000/- per month or is it Rs.35,000/- per month.

14. The orders reveals nothing.

15. As regards the wife, the order does not clarify whether the learned Judge is treating that she is having no income from the business of a beauty parlour or is it that the learned Judge has treated the income of the wife to be Rs.5,000/- per month from the business of the stated beauty parlour.

16. Since the order has changed tracks repeatedly, as noted above, I hold that the order does not conform to the

requirements of a reasoned decision.

17. I set aside the impugned order dated 12.1.2007. I restore the application filed by the wife under Section 24 of the Hindu Marriage Act.

18. The learned Trial Judge would redecide the application by focusing on the issue of the income of the respective spouse as alleged and prima facie made good with reference to material brought on record.

19. Before concluding I may note than as in the instant case, in virtually every case relating to interim maintenance, pleadings of the parties are vague. Exaggerated claims are made without any basis.

20. Noting that tax avoidance is the norm followed by the vast majority of the self employed people in this country and tax compliance is being followed by the minority, counsel would be better advised to make specific pleadings relating to the social status enjoyed by the family and especially when the husband and wife were in consortium. The school in which the children were put; the monthly fees which the husband was paying to the school; whether the family was holidaying and if yes at what place; what was the social interaction of the couple with their friends; all could constitute good material wherefrom, with a firm footing, income of the spouses could be gathered.

21. The learned Trial Judge is directed to redecide the matter within 2 months from date of receipt of the instant order.

22. No costs.

December 18, 2007 **PRADEEP NANDRAJOG, J.**
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